IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN INSOLVENCY

INSOLVENCY PETITION NO.32 OF 2002

Re : Jayant Manilal Doshi. ...Insolvent.
Ex-parte:
Manipal Finance Corporation Limited. ..Petg. Creditor.

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Mr. G. R. Mehta for the Petitioning Creditor.
Mr. Jayant Gaikwad for the purchaser.
Mr.Y. C. Parikh, Official Assignee present.

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CORAM : DR.D.Y.CHANDRACHUD, J.

August 1, 2006.

P.C.

REPORT OF THE OFFICIAL ASSIGNEE DATED 31ST MAY 2006:

An order of adjudication was passed on 3rd September 2002. At a meeting held by the Official Assignee on 20th January 2003, the Insolvent sought three months' time to vacate the premises. In the meantime, the Official Assignee fixed the compensation payable in respect of the flat at Rs.500/- per month from September 2002. In May 2005, the Insolvent stated that his

son was willing to given an offer of an amount of Rs.8 lakhs. It would appear that the Pay Order for Rs.50,000/- which was tendered on 13th July 2005 expired on 7th December 2005. Thereafter, despite sufficient opportunity being given, the offer which was made has not fructified since the son of the Insolvent has failed and neglected to pay the amount. Efforts which were made thereafter in February 2006 for taking possession of the flat have failed. The Insolvent has not filed his schedule of assets and liabilities. The claim of the Petitioning Creditor is in excess of Rs. 1.26 crores inclusive of further interest. The net assets available in the hands of the Official Assignee in respect of the insolvent is a paltry amount of approximately Rs.28,000/-.

In these circumstances, I am of the view that the Official Assignee must take steps forthwith to obtain the valuation of the flat being Flat No.D-5 standing in the name of Insolvent and situated at Borivali Prashant Sadan Co-operative Housing Society Ltd., Eksar Road, Borivli, Mumbai-400 092. The Official Assignee shall at this stage take formal possession of the flat without disturbing the occupation of the Insolvent and his family. This shall be subject to the condition that the Insolvent shall file an

undertaking within one week and that he shall upon the sale being complete, hand over the possession forthwith upon being called upon by the Official Assignee. In the event that the Insolvent fails to file an undertaking, the Official Assignee is authorised to take forcible possession. Counsel appearing on behalf of the Insolvent submits before the Court that a valuation should be carried out in respect of the residential flat by the Official Assignee. Counsel appearing on behalf of the Petitioning Creditor states that a valuation report has been filed and the present market value is estimated at Rs. 16.70 lakhs. Be that as it may, in the interests of justice, it would be appropriate that the Official Assignee is directed to carry out valuation through a valuer on the panel of the Official Assignee. For the said purpose, the Insolvent has agreed through Counsel to cover the cost of valuation A deposit towards costs shall be made with the Official Assignee within a period of one week from today.

The amount of compensation that would be liable to be paid by the Insolvent in respect of the flat, in the facts and circumstances is enhanced to Rs.2,000/- per month with effect from 1st August 2006.

After the report of the valuation is received, the Official Assignee shall proceed to invite offers by issuing a public advertisement. The Official Assignee shall move the Court for fixing the reserve price and thereafter for confirmation of the sale.

The report of the Official Assignee is accordingly disposed of.

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